

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**AMBAC ASSURANCE CORPORATION'S OPPOSITION TO URGENT MOTION OF
THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR LEAVE TO FILE
A SINGLE COMBINED RESPONSE OF NO MORE THAN 55 PAGES [ECF NO. 7769]
IN OPPOSITION TO AMBAC ASSURANCE CORPORATION'S MOTION
CONCERNING APPLICATION OF THE AUTOMATIC STAY [ECF NO. 7176] AND
FINANCIAL GUARANTY INSURANCE COMPANY'S JOINDER [ECF NO. 7546]**

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico ("Commonwealth") (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States District Court Judge Laura Taylor Swain:

1. Ambac² respectfully submits this brief in opposition to the *Urgent Motion of the Financial Oversight and Management Board for Leave to File a Single Combined Response of No More Than 55 Pages in Opposition to Ambac Assurance Corporation's Motion Concerning Application of the Automatic Stay and Financial Guaranty Insurance Company's Joinder* (Dkt. No. 7769) (the "Oversize Brief Motion"), which seeks leave for the Oversight Board to file a 55-page opposition to Ambac's *Motion and Memorandum of Law in Support of its Motion Concerning Application of the Automatic Stay to the Revenues Securing PRIFA Rum Tax Bonds* (Dkt. No. 7176) ("Automatic Stay Motion").

2. Ambac's Automatic Stay Motion was 35 pages, pursuant to the *Ninth Amended Notice, Case Management and Administrative Procedures* (Dkt. 7115-1) ("Case Management Order"), and included legal briefing of all of the issues implicated by Ambac's motion, not just issues of standing and whether Ambac is a secured creditor.

3. After Ambac filed the Automatic Stay Motion, this Court limited the scope of issues to be heard at the July 24, 2019, hearing, ruling that: "The July 24, 2019, hearing on the automatic stay-related motion practice will be oral argument on the legal issues of standing and secured status only. Factual submissions must be limited to legal documents (statutes, agreements and the like) relevant to the parties' standing and collateral security arguments." *Order Regarding Argument and Discovery in Connection with Ambac Assurance Corporation's Motion Concerning Application of the Automatic Stay* (Dkt No. 7420).

4. The Financial Guaranty Insurance Company ("FGIC") filed on June 21, 2019, a *Joinder in Ambac's Motion Concerning Application of the Automatic Stay to the Revenues*

² Unless otherwise specified, defined terms have the same meanings given to them in the Automatic Stay Motion.

Securing PRIFA Rum Tax Bonds (Dkt. No. 7546) (“FGIC’s Joinder”). FGIC’s Joinder consists of five pages of text, including footnotes, most of which recites and repeats legal and factual background points also addressed in Ambac’s Automatic Stay Motion. *Compare* FGIC’s Joinder ¶¶ 1-9 (describing the Rum Taxes, the pledge of Pledged Rum Taxes to PRIFA, and the operative language from the Enabling Act and the Trust Agreement), *with* Ambac’s Automatic Stay Motion ¶¶ 14-18 (same). The only “new” arguments in FGIC’s Joinder consists of a description of FGIC’s standing as insurer under the PRIFA bonds (which is the same as Ambac’s standing), a statement that FGIC insures \$357 million in principal amount of PRIFA Bonds, and a statement that Ambac’s Automatic Stay Motion “has legal merit” and, with FGIC’s joinder, “the support of a majority in amount of the PRIFA Bonds.” FGIC’s Joinder ¶¶ 10-14.

5. For the foregoing reasons, Ambac objects to the Oversight Board’s request for a 55-page opposition brief as unwarranted. In light of the Court’s order narrowing the issues to be heard on July 24 to the two issues of standing and secured status, and the fact that FGIC is not raising any “new” arguments—merely joining with Ambac’s motion, and thereby confirming that the motion has the support of a majority of the PRIFA bonds—there is no reason the Oversight Board cannot adequately address the issues in the 35 pages afforded under the Case Management Order, as Ambac did.

6. To the extent that the Court is inclined to grant the Oversight Board’s request, Ambac respectfully requests that the Court allow Ambac to file a reply brief of up to 30 pages, exclusive of the cover page, the table of contents, the table of authorities, the signature page, exhibits, and the certificate of service (*i.e.*, 15 pages more than the 15-page limit under the Case Management Order), so that Ambac can have an adequate opportunity to respond to the arguments

contained in the Oversight Board's oversize brief. As set forth in its Oversize Brief Motion, the Oversight Board consents to this alternative relief.

7. For the foregoing reasons, the Court should deny the Oversize Brief Motion.

Dated: July 2, 2019
San Juan, Puerto Rico

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CERTIFICATE OF SERVICE

I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to all CM/ECF participants in this case.

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